

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Globalstar, Inc. Petition for Notice of Inquiry	)	RM-11808
Regarding the Operation of Outdoor U-NII-1	)	
Devices in the 5 GHz Band	)	

To: The Commission

**COMMENTS OF  
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Sections 1.405 and 1.430 of the Commission’s Rules, hereby submits initial comments in response to the Petition for Notice of Inquiry (“Petition”) filed on May 21, 2018 by Globalstar, Inc.

(“Globalstar”).<sup>1</sup> As discussed below, the Petition appears to be based on flawed measurements and incorrect assumptions that distort Globalstar’s allegations of harmful interference. If, however, the Commission nonetheless proceeds with a Notice of Inquiry, the Commission should exclude fixed wireless Internet service providers (“WISPs”) from any such inquiry in light of Globalstar’s conclusion that WISPs are not the source of any alleged interference, and should not impose the disproportionate remedies Globalstar requests.

**Introduction**

WISPA is the trade association that represents the interests of more than 800 WISPs that provide broadband service throughout the country, particularly in rural areas where fixed wireless technology can be deployed expeditiously and cost-effectively. WISPs are typically small businesses with 10 or fewer employees and, on average, about 1,200 customers. WISPs use many licensed and unlicensed bands to provide service, including the 5150-5250 MHz U-

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<sup>1</sup> See Public Notice, Report No. 3092 (rel. June 6, 2018).

NII-1 band that the Commission made available for outdoor use in 2014 with WISPA's support.<sup>2</sup> Those that transmit on U-NII-1 frequencies also use other bands and, with a few exceptions, it is thus likely that no WISP has more than a few hundred customers that use the U-NII-1 band. WISPs also use the U-NII-1 band for point-to-point backhaul connections.

Authorizing outdoor use of the U-NII-1 band has proved to be a success story for the WISP industry and the consumers who obtain fixed broadband access via those frequencies. Other 5 GHz U-NII bands are saturated in certain areas such that adding new customers to those bands would result in slower speeds and lower quality service. In typical configurations, WISPs deploy access points with directional antennas, not omnidirectional antennas, and customer premise equipment uses highly directional antennas to communicate to the associated fixed access point. By leveraging existing U-NII equipment, WISPs have been able to access the U-NII-1 band quickly and expand their service areas and customer bases. To curtail or, worse, foreclose the ability of WISPs to use of this band would have dire consequences for service providers, their customers and equipment manufacturers and distributors.

Globalstar's Petition alleges that its Mobile Satellite Service ("MSS") satellites are receiving increased levels of noise when they cross the United States. Aspects of its technical findings are suspect, but Globalstar acknowledges that WISP networks are not the cause of the interference it alleges. Its Technical Report states that "[g]iven the highly directional nature of these operations and the relatively small number of WISP base station sites, *it is highly unlikely that WISP operations have materially contributed to the noise rise measured by Globalstar at its satellites.*"<sup>3</sup> Notwithstanding this conclusion, however, Globalstar asks for a comprehensive inquiry that, if applied to WISPs, would force them to expend additional and unnecessary

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<sup>2</sup> See *Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, First Report and Order, 29 FCC Rcd 4127 (2014).

<sup>3</sup> Petition, Technical Report at 52 (emphasis added).

resources to participate in the proceeding and potentially face drastic sanctions that could include losing access to the U-NII-1 band. To the extent the Commission adopts a Notice of Inquiry, any such proceeding should exclude WISP deployments so that further uncertainty is not introduced into the band and WISPs can continue to deploy under the carefully crafted rules adopted in 2014.

## **Discussion**

### **I. THERE IS AN INSUFFICIENT BASIS FOR THE COMMISSION TO INITIATE AN INQUIRY**

Before the Commission conducts the complex and time-consuming proceeding Globalstar requests, it is required by Section 1.407 to ensure that “the petition discloses *sufficient reasons* in support of the action requested to justify the institution” of an inquiry.<sup>4</sup> Although Globalstar provides information purporting to show an increase in noise that its satellites hear, much of its analysis appears to be suspect. The Commission cannot determine whether there are “sufficient reasons” for a formal inquiry proceeding unless and until Globalstar answers some basic questions:

- Given that Globalstar is authorized to operate in the 5096-5250 MHz band,<sup>5</sup> it is conceivable that detected signals are emanating from outside the 5150-5250 MHz band. Globalstar should explain whether and how its measurements detected signals within the 5150-5250 MHz band.
- Globalstar conducted measurements for two minutes at a time a few times per month. Globalstar should explain how it concluded that this sample is representative and dispositive.
- Globalstar measured interference from a single location at Lincoln, Kansas. Globalstar should explain how this measurement methodology is representative and dispositive.

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<sup>4</sup> 47 C.F.R. § 1.407 (emphasis added). The standard for rulemaking proceedings and notice of inquiry proceedings is the same under Section 1.430.

<sup>5</sup> See, e.g., Petition at 5.

- Signals detected from different Globalstar satellites had wide variations in the signal levels detected. Globalstar should explain these differences.
- A degradation in service from 1 dB in February 2017 to 2 dB in August 2017 assumes a 25 percent increase in outdoor access points in a relatively short period of time. Globalstar should explain and justify how it determined the increase in the number of outdoor access points.

## **II. WISPS SHOULD BE EXCLUDED FROM ANY INQUIRY THE COMMISSION MAY INITIATE**

WISPA notes Globalstar’s acknowledgement that two of WISPA’s members, Rise Broadband and Vivint, filed notices with the Commission reporting that they have deployed more than 1,000 outdoor access points, as required by Section 15.407(j).<sup>6</sup> Globalstar also considered a recent industry report stating that WISPs deploy point-to-multipoint facilities in the 5 GHz band with “narrow-beam, highly directional antennas pointed toward the horizon.”<sup>7</sup> Those facilities that are used for point-to-point backhaul services have very directional beams and are thus unlikely to affect Globalstar’s satellites. Based on the Rise Broadband and Vivint notices and the “highly directional nature of these operations and the relatively small number of WISP base station sites, Globalstar concluded that “it is highly unlikely that WISP operations have materially contributed to the noise rise measured by Globalstar at its satellites.”<sup>8</sup>

Given the acknowledged compliance with Commission rules, Globalstar’s ability to assess the notices, and its conclusion that WISPs are “highly unlikely” to be the source of any purported interference, it would be highly inappropriate for the Commission to subject WISPs to further inquiry or to impose any of the extreme allegedly “remedial” measures Globalstar suggests.<sup>9</sup> Subjecting WISPs, the vast majority of which are very small businesses with 10 or

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<sup>6</sup> See Petition at 10.

<sup>7</sup> Petition, Technical Report at 52.

<sup>8</sup> *Id.* (emphasis added).

<sup>9</sup> See Petition at 23-25.

fewer employees and less than 1,200 subscribers,<sup>10</sup> would require them to expend significant resources to confirm what Globalstar has already acknowledged. WISPs should be spared this unnecessary exercise.

### **III. EXISTING SAFEGUARDS IN THE COMMISSION'S RULES ARE SUFFICIENT TO PROTECT GLOBALSTAR**

Assuming *arguendo* the Commission proceeds with an inquiry and does not exempt WISPs from the adverse impact of that proceeding, there is no basis for the Commission to conclude that existing safeguards in the Commission's rules are inadequate to protect Globalstar from any interference that WISPs may cause. Two large WISPs have submitted required notices, and it is highly unlikely that other WISPs will achieve the 1,000-plus level of outdoor U-NII-1 deployments.

Notwithstanding, Globalstar proposes a number of remedial measures that, if imposed, would punish innocent parties and the consumers they serve. Globalstar suggests that *if* any company deployed more than 1,000 access points and did not report that information to the Commission, "the Commission should require the immediate termination of those companies' U-NII-1 operations and take appropriate enforcement action against those parties."<sup>11</sup> Yet the sole basis that Globalstar offers for even considering such a draconian measure is its bare conjecture that "equipment authorization data suggest" that more than the few operators that have filed the required reports with the Commission have rolled out in excess of 1,000 outdoor access points.<sup>12</sup> No data whatsoever is provided to support this aggressive conclusion.

Even if there were data to support this assertion, forcing users of the U-NII-1 band to terminate operations would require operators to either shift their transmissions to other crowded

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<sup>10</sup> The survey was conducted in 2017 and the results are summarized in WISPA's Comments filed in the *Restoring Internet Freedom* proceeding, WC Docket No. 17-108.

<sup>11</sup> Petition at 23 n.68.

<sup>12</sup> *Id.* at 23.

U-NII bands and degrade service for all U-NII customers, or cease providing service to U-NII-1 customers altogether. Globalstar’s bare claim that shifting access points to other U-NII bands will “continue to generate the benefits the Commission contemplated”<sup>13</sup> misses the point – WISPs use the U-NII-1 band *because* the other U-NII bands are congested and unable to accommodate additional consumers without compromising the quality of service provided to consumers.

Likewise, adopting the Canadian model of limiting authority for outdoor U-NII-1 operations to “qualified terrestrial wireless operators that typically enjoy effective control over their networks, rather than permit unlimited outdoor deployments” opens the door for implementing a regulatory scheme that is contrary to the permissive nature of Part 15 device deployment.<sup>14</sup> Such an eligibility regime would likely provide no benefits that cannot be achieved with the existing reporting requirement.

Revisiting Globalstar’s proposed regulatory “backstop” assumes that the Commission issues licenses for the U-NII-1 band that can be frozen.<sup>15</sup> But, the U-NII-1 band operates on an unlicensed basis and the Commission does not issue authorizations, as Globalstar appears to presume.<sup>16</sup> If Globalstar’s proposal is to convert the U-NII-1 service to a licensed band, that would require a rulemaking proceeding, not an inquiry, and would be opposed by many stakeholders that have benefitted from the permissive Part 15 rules that enable expeditious and cost-effective broadband deployment.

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<sup>13</sup> *Id.* at 24.

<sup>14</sup> *Id.*

<sup>15</sup> *See id.* at 25.

<sup>16</sup> *See id.*

## **Conclusion**

Globalstar's Petition raises many questions that should be answered before the Commission can conclude, consistent with its regulatory authority, that there are "sufficient reasons" for the Commission to initiate an inquiry. Even so, Globalstar acknowledges that WISPs are not the source of any purported interference to Globalstar's satellites, and they therefore should be exempt from any inquiry and any changes in operations and equipment use that might result therefrom.

Respectfully submitted,

**WIRELESS INTERNET SERVICE  
PROVIDERS ASSOCIATION**

By: /s/ Claude Aiken  
Claude Aiken, President/CEO

Stephen E. Coran  
Lerman Senter PLLC  
2001 L Street, NW, Suite 400  
Washington, DC 20036  
(202) 416-6744

*Counsel to the Wireless Internet Service Providers Association*

July 6, 2018

**CERTIFICATE OF SERVICE**

I, Sharon Krantzman, hereby certify that on this 6<sup>th</sup> day of July, 2018, a copy of the foregoing "Comments" was sent by first class, postage prepaid mail to the following:

L. Barbee Ponder IV  
General Counsel and Vice President  
Regulatory Affairs  
Globalstar, Inc.  
300 Holiday Square Boulevard  
Covington, LA 70433

Regina M. Keeney  
Stephen J. Berman  
Lawler, Metzger, Keeney & Logan, LLC  
Suite 1075  
1717 K Street, NW  
Washington, DC 20006

/s/ Sharon Krantzman  
Sharon Krantzman